

¹ The Board notes that appellant's Application for Review (Form AB-1) notes that she is also requesting an appeal from a December 17, 2019 decision. However, as that decision was issued more than 180 days before the filing of this appeal, the Board lacks jurisdiction over that decision. 20 C.F.R. § 501.3(e).

By decision dated January 24, 2019, OWCP denied expansion of appellant's claim to include consequential conditions.

On September 19, 2019 appellant requested reconsideration and submitted additional medical evidence in support of his claim.

By decision dated December 17, 2019, OWCP denied modification of its January 24, 2019 decision, finding that the medical evidence of record was insufficient to establish that appellant's claimed consequential bilateral ring and middle trigger finger conditions were causally related to his accepted employment injury.²

On November 2, 2020 appellant requested reconsideration. Along with appellant's letter, OWCP received additional medical evidence.

In a letter dated February 19, 2021, OWCP informed appellant that "[o]n November 2, 2020 we received your letter requesting reconsideration." It advised that it was not clear from his letter which decision or issues for which he was seeking reconsideration. OWCP then advised appellant that no further action would be taken on his letter. It related that if he wished to request reconsideration, then he should make such request in writing within one year of the decision for which review was sought together with relevant evidence not previously submitted or legal argument not previously considered.

On February 19, 2021 appellant again requested reconsideration of the December 17, 2019 decision.

By decision dated March 26, 2021, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error. It noted that his reconsideration request was not received until February 19, 2021.

The Board has duly considered this matter and finds that OWCP improperly determined that appellant's request for reconsideration was untimely filed.³ In the instant case, the case record contains a request for reconsideration received by OWCP on November 2, 2020. As the November 2, 2020 request for reconsideration was received within one year of OWCP's December 17, 2019 merit decision,⁴ it was timely filed.⁵ Therefore, OWCP should have applied the standard applicable to timely reconsideration requests as set forth in 20 C.F.R. § 10.606(b)(3), rather than the more stringent clear evidence of error standard for untimely reconsideration

² In a July 13, 2020 decision, OWCP granted appellant a schedule award for five percent permanent impairment of the right arm. It found that he had zero percent permanent impairment of the left arm.

³ *Order Remanding Case, J.C.*, Docket No. 20-1360 (issued March 12, 2021); *I.A.*, Docket No. 19-1910 (issued September 29, 2020); *Order Remanding Case, D.F.*, Docket No. 20-0267 (issued June 29, 2020); *E.S.*, Docket No. 17-0698 (issued July 14, 2017).

⁴ *J.C., id.*; *R.T.*, Docket No. 20-0298 (issued August 6, 2020); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4(a) (February 2016).

⁵ *J.C., id.*; *J.H.*, Docket No. 18-1367 (issued July 17, 2019); *R.M.*, Docket No. 17-0473 (issued June 6, 2017); *C.B.*, Docket No. 13-1732 (issued January 28, 2014).

requests set forth in 20 C.F.R. § 10.607(a). Because it erroneously reviewed the evidence submitted in support of appellant's reconsideration request under the incorrect standard, the Board will remand the case for review of this evidence under the proper standard of review for timely reconsideration requests.⁶

Thus, the Board finds that this case must be remanded for proper adjudication and application of the appropriate standard of review, to be followed by an appropriate decision. Accordingly,

IT IS HEREBY ORDERED THAT the March 26, 2021 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: March 1, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

⁶ *J.C., id.*; *Order Remanding Case, L.N.*, Docket No. 19-0170 (issued August 21, 2019).